

1 HONORABLE RONALD B. LEIGHTON
2
3
4
5
6

7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT TACOMA

10 TED SPICE,

11 Plaintiff,

12 v.

13 LAW OFFICE OF BRIAN ROESCH, et al.,

14 Defendants.

No. 12-cv-6005-RBL

ORDER

(Dkt. #1, 2)

14 Plaintiff has applied for *in forma pauperis* status in his proposed suit for alleged
15 violations of his civil rights under 42 U.S.C. § 1983.
16

17 A district court may permit indigent litigants to proceed *in forma pauperis* upon
18 completion of a proper affidavit of indigency. *See* 28 U.S.C. § 1915(a). The court has broad
19 discretion in resolving the application, but “the privilege of proceeding *in forma pauperis* in civil
20 actions for damages should be sparingly granted.” *Weller v. Dickson*, 314 F.2d 598, 600 (9th Cir.
21 1963), *cert. denied* 375 U.S. 845 (1963). Moreover, a court should “deny leave to proceed *in*
22 *forma pauperis* at the outset if it appears from the face of the proposed complaint that the action
23 is frivolous or without merit.” *Tripati v. First Nat’l Bank & Trust*, 821 F.2d 1368, 1369 (9th Cir.
24 1987) (citations omitted); *see also* 28 U.S.C. § 1915(e)(2)(B)(i). An *in forma pauperis*
25 complaint is frivolous if “it ha[s] no arguable substance in law or fact.” *Id.* (citing *Rizzo v.*
26 *Dawson*, 778 F.2d 527, 529 (9th Cir. 1985); *Franklin v. Murphy*, 745 F.2d 1221, 1228 (9th Cir.
27 1984)).
28

1 Here, the Court must deny leave to proceed *in forma pauperis* because Plaintiff's
2 proposed Complaint has no basis in law. Plaintiff "seeks removal or remand" of his state court
3 case, which apparently involves claims for slander (and is apparently on-going). (*See* Compl. at
4 2, Dkt. #1.) The Complaint is confusing, but from what the Court can discern, Plaintiff alleges
5 that Defendants slandered him in state court, and he seeks a remedy in federal court.
6 Unfortunately, a claim under § 1983 requires that a defendant act under color of law, and
7 Defendants here certainly do not. 42 U.S.C. § 1983 ("[e]very person who under color of any
8 statute, ordinance, regulation custome or usage . . ."). Moreover, federal courts are not courts of
9 appeal for state cases. In short, the Complaint presents no basis for federal jurisdiction.

10 Because this Court lacks jurisdiction to hear Plaintiff's claims, the application to proceed
11 *in forma pauperis* (Dkt. #1) is **DENIED**, and the case is **DISMISSED WITH PREJUDICE**.

12
13 Dated this 30th day of November 2012.

14
15 
16 Ronald B. Leighton
17 United States District Judge